

1 ALYSON C. DECKER, State Bar No. 252384

2 Email: adecker@lrmmmt.com

3 LOWTHORP RICHARDS McMILLAN

4 MILLER & TEMPLEMAN

5 300 E. Esplanade Drive, Suite 850

6 Oxnard, California 93036

7 Telephone: (805) 981-8555

8 Facsimile: (805) 983-1967

9 Attorneys for Plaintiff

10 JOHN ARNAUD

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13 EASTERN DIVISION

14 JOHN ARNAUD, an individual,

15 Plaintiff.

16 vs.

17 LITTLE CAESAR ENTERPRISES,
18 INC., a Michigan corporation, SYLVIA
19 DELOS SANTOS, an individual; and
20 DOES 1 through 10, inclusive,

21 Defendants.

Case No. 5:18-cv-01316 DOC (KKx)

**DECLARATION OF PLAINTIFF
JOHN ARNAUD IN SUPPORT OF
MOTION FOR REMAND**

*[FILED CONCURRENTLY WITH
NOTICE OF MOTION AND
MOTION FOR REMAND;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
ALYSON C. DECKER; AND
[PROPOSED] ORDER]*

Complaint Filed: April 26, 2018

Removed: June 19, 2018

Hearing Date: August 27, 2018

Hearing Time: 8:30 AM

Hearing Officer: Honorable Judge
David O. Carter

DECLARATION OF PLAINTIFF JOHN ARNAUD

I, JOHN ARNAUD, declare as follows:

1. I am the Plaintiff in this present action and a resident of the State of California. I make this declaration based upon my own personal knowledge, and if called as a witness, I will be able to testify competently as to the matters contained in this declaration.

2. I am currently the General Manager of Defendant Little Caesar Enterprises, Inc.'s ("Little Caesars") Store 5889. Since being allowed to return to work last year, I have steadily increased the sales and profitability of my store.

3. Up until August of 2017, Defendant Sylvia Delos Santos ("Santos") was the Human Resources Manager for the West Zone of Defendant Little Caesars and my Human Resources Manager.

4. On April 26, 2017, Defendant Santos issued me a Colleague Collective Action Report, which was also dated April 26, 2017. Not only did Defendant Santos write me up for things that other employees of Defendant Little Caesars would not have been written up for, but the report contains numerous false statements that were directly contradicted by the weekly "trainee" evaluations I had been receiving at the time. In addition, although Defendant Santos had granted my request to have my birthday off from work, she included my request for time off as part of the writeup instead of simply denying it or informing me that the request was inappropriate. Attached hereto as Exhibit A is a true and correct copy of the April 26, 2017 Colleague Collective Action Report.

5. Following the issuance of this false report, and in connection with it, Defendant Santos made additional false oral statements about me to Dave Anderson and other employees of Defendant Little Caesars. These statements reflected poorly on my character and negatively impacted my employment at Defendant Little Caesars.

6. This was not the only time that Defendant Santos made false and

LOWTHORP RICHARDS
ATTORNEYS AT LAW
VENTURA COUNTY

1 negative statements about me. Another specific incident involved Defendant Santos
2 falsely telling other employees at Defendant Little Caesars that I had mistreated a
3 pregnant coworker. These statements were made prior to her completing any
4 investigation into such claims and before she had even discussed any such claims
5 with me. These claims and Defendant Santos' statements were completely untrue
6 and I was never written up or even reprimanded for such alleged misconduct.

7 7. All of the false statements made by Defendant Santos have negatively
8 impacted my professional reputation, impugned my character, and caused me severe
9 emotional distress.

10 8. From my return to work at Defendant Little Caesars on April 5, 2017,
11 until Defendant Santos left Defendant Little Caesars, Defendant Santos subjected me
12 to a continuing pattern of retaliatory and discriminatory behavior including
13 unsubstantiated threats of termination, improper write-ups, and repeatedly making
14 knowingly false statements about me to other employees of Defendant Little
15 Caesars. This directly and negatively affected my future at Defendant Little
16 Caesars, my economic well-being, and my emotional state.

17 I declare under penalty of perjury under the laws of the State of California
18 that the foregoing is true and correct. Executed this 18 day of July, 2018, at
19 Fontana, California.

20
21 
22 JOHN ARNAUD
23
24
25
26
27
28

EXHIBIT A

COLLEAGUE CORRECTIVE ACTION REPORT

PLEASE PRINT CLEARLY

COLLEAGUE NAME: John Arnaud EE#: 139387STORE/DEPT. # 5927 DATE OF ISSUANCE: April 24, 2017

CHECK NATURE OF INCIDENT:

☐ UNREPORTED ABSENCE ☐ VIOLATION OF DRESS CODE ☐ VIOLATION OF SAFETY/SECURITY POLICIES
☐ TARDINESS/ABSENTEEISM ☐ POOR CUSTOMER SERVICE ☒ UNSATISFACTORY PERFORMANCE
☐ INSUBORDINATION ☐ CARELESSNESS ☐ LEAVING WITHOUT PERMISSION
☐ IMPROPER CONDUCT ☐ CASH MANAGEMENT ☐ FALSIFICATION / IMPROPER HANDLING OF RECORDS
☐ POSSESSION OF OR UNDER THE INFLUENCE OF DRUGS/ALCOHOL ☐ IMPROPER/UNAUTHORIZED/PROHIBITED USE OF ELECTRONIC SYSTEMS
☐ OTHER: _____

DESCRIPTION OF EVENTS

(Use additional pages if necessary. Attach any previous related corrective action.)

On April 17, 2017, you informed your supervisor Sean Varvello that you did not feel comfortable working shifts without the store manager, working closing shifts, or doing any paperwork. On April 20, 2017, you told Sean Varvello that not only did you not want to close or do any manager duties, but you also did not want to do dough or work in landing. As you know and as previously discussed, these duties and responsibilities are that of a Store Manager and you're being held to the same standard as all Store Managers.

This continues a pattern of attempting to provoke LCE management while you are being retrained as a manager.

- On April 5 you stated that you could only work 8 hours per day, and then denied this claim when Becky Adkins engaged you in the interactive process regarding this request;
- Continuous complaints regarding your benefits, which as we have explained, is outside of LCE's control;
- Complaints regarding your rate of pay, which is commensurate with other General Managers.
- Your request on your first day back (April 5, 2017) to take off from work in your first week back to work.

On April 17 you told Sean Varvello that you were refusing to perform the basic tasks of a manager because you were upset regarding negotiations between your lawyer and LCE. This is unacceptable.

You must satisfactorily complete your 4-week training period to be eligible to be assigned as a General Manager at a LCE store. That includes fully participating in this training, including (1) working independent of the General Manager; (2) working required shifts; (3) doing paperwork, and (4) working at all stations in the restaurant, including doing dough and working in landing.

Your continued failure to actively participate in the training program will subject you to further discipline, up to and including termination.

STRATEGY REQUIRED TO PREVENT FURTHER CORRECTIVE ACTION:

(Attach additional pages if necessary)

Starting immediately, you must agree to work at all stations in the restaurant, and fully participate in the training program. You must satisfactorily complete your 4-week training period to be eligible to be assigned as a General Manager at a LCE store. This includes: (1) working independent of the General Manager; (2) working all required shifts; (3) doing paperwork, and (4) working at all stations in the restaurant, including doing dough and working in landing. Any questions regarding your tasks during your retraining period must be directed to Sean Varvello.

You can still complete this training program on May 3, and be eligible to be assigned as a General Manager if there is an open position in your region.

WEST276355651.1

Exhibit A

COLLEAGUE COMMENTS

To Colleague: Continued incidents or other violations of Company practices, policies, and procedures may result in further corrective action up to and including termination of employment.

I have read this report and understand that signing below indicates the incident(s) was discussed with me.

| | |
|---|---------------|
| _____ Signature of Colleague | _____ Date |
| I verify that this report has been presented to the said colleague following the stated incident. | |
| _____ Signature of Presenter | _____ Date |

THE ABOVE INCIDENT(S) HAVE BEEN NOTED AND ARE MADE A PART OF THE ABOVE COLLEAGUE'S PERSONNEL FILE.

WHITE – HUMAN RESOURCES YELLOW – SUPERVISOR PINK – COLLEAGUE CAF 6-12